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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/720,173	12/20/2000	Peter Johnstone	31707/207270	8867

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EXAMINER

AHMED, SHEEBA

ART UNIT PAPER NUMBER

1773

DATE MAILED: 02/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/720,173

Applicant(s)

JOHNSTONE, PETER

eb

Examiner

Sheeba Ahmed

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,5-9,11,12,15,16,18-24,26 and 27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2,5-9,11,12,15,16,18-24,26 and 27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 13, 2003 has been entered.

Response to Amendment

2. Claims 2, 9, 11, 15, 18, 26, and 27 have been amended in the above-identified application. **Claims 2, 5-9, 11, 12, 15, 16, 18-24, 26, and 27 are still pending.**

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 2, 5-9, 11, 12, 15, 16, 18-24, 26 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnstone (WO 98/50219).

Johnstone (WO 98/50219) discloses a method for producing a stretch wrap plastic film and the storage of such plastic film, which has undergone stretching prior to

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storage on a roll (Page 1, lines 3-6). The film is pre-stretched to give a predetermined significant amount of memory and the amount of recoverable strain retained in the films falls within the range of about 20% to a maximum of total memory in the film (*indicating that 20 to 80% of the film is relaxed and thus meting the limitation that the plastics material is uniformly relaxed across its cross-section transverse to the stretching direction by 20%*) (Page 2, lines 9-12 and 19-21). A method a wrapping a load with the plastics film is also provided and the load may be a vegetation material during the production of silage (Page 3, lines 13-15). A partially stretched film may be further stretched or re-stretched to attain the original level of stretching or in some cases even beyond the original level of stretching (Page 9, lines 1-5). With regards to the limitations that the plastics material member achieves either or both an improved resistance to degradation from UV light and an improved resistance to gas transmissivity, the Examiner takes the position that such material properties are inherently present in the stretched film disclosed by Johnstone given that the chemical composition of the film and the process of making such a stretched film (as well as the process of relaxing it) as disclosed by Johnstone and that of the claimed invention are identical. Furthermore, the Examiner takes the position that the wrapped bale of silage is inherently in an anaerobic atmosphere given that the stretched film is not gas permeable. All limitations of the claimed invention are either disclosed or inherent in the above reference.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2, 5-9, 11, 12, 15, and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin-Cocher et al. (WO 94/04419).

Martin-Cocher et al. disclose a method of wrapping loads in a stretchable film wherein the film is pre-stretched to an elongation value of about 150 to 500% so that after relaxation it presents a tension. The film may be pre-stretched in its longitudinal or transverse direction. The invention is related to wrapping palletized loads.

Martin-Cocher do not disclose that the stretched plastics film is relaxed across its cross-section transverse to the stretching direction by between 5 and 20%.

However, it would have been obvious to one having ordinary skill in the art to optimize the amount of relaxation of the film given that Martin-Cocher specifically teach that the amount of film relaxing stabilizes the film and determines the increase in tearing resistance. With regards to the limitations that the plastics material member achieves either or both an improved resistance to degradation from UV light and an improved resistance to gas transmissivity, the Examiner takes the position that such material properties are inherently present in the stretched film disclosed by Martin-Cocher et al. given that the chemical composition of the film and the process of making such a

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stretched film as disclosed by Martin-Cocher et al. and that of the claimed invention are identical.

5. Claims 16, 18-20, 26, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin-Cocher et al. (WO 94/04419) in view of Orpen et al. (US 5,816,026).

Martin-Cocher et al. disclose a method of wrapping loads in a stretchable film wherein the film is pre-stretched to an elongation value of about 150 to 500% so that after relaxation it presents a tension. The film may be pre-stretched in its longitudinal or transverse direction. The invention is related to wrapping palletized loads.

Martin-Cocher et al. do not state that the palletized load that may be wrapped with their stretched film is silage.

However, Orpen teaches that it is common practice to wrap bales of silage in a stretched plastic film provided in rolls (Column 1, lines 8-11 and 66-68 and column 2, lines 1-10).

Accordingly, it would have been obvious to one having ordinary skill in the art to use the stretched plastic film disclosed by Martin-Cocher et al. to wrap a bale of silage given that Orpen particularly teaches that it is common practice to wrap bales of silage in a stretched plastic film provided in rolls. Furthermore, the Examiner takes the position that the wrapped bale of silage must be in an anaerobic atmosphere given that the stretched film is not gas permeable.

Response to Arguments

6. Applicant's arguments filed on November 13, 2003 have been fully considered but they are not persuasive.

Applicants traverse the rejection of all pending claims under 35 U.S.C. 102(b) as being anticipated by Johnstone (WO 98/50219) and the rejection of claims 2, 5-9, 11, 12, 15, and 21-24 under 35 U.S.C. 103(a) as being unpatentable over Martin-Cocher et al. (WO 94/04419) and submit that neither disclose any attempt to ensure that in the relaxation stage, the relaxation occurs uniformly over the entire transverse cross-sectional width and that the relaxation is between 5 and 20% of its total stretched length. However, the Examiner disagrees and would like to point out that Johnstone (WO 98/50219) specifically discloses that the film is pre-stretched and contains about 20% to about 80% of the total memory. In addition, the Examiner takes the position that the stretching and relaxing is substantially uniformly across the transverse cross-section given that both the stretching and the relaxing take place while the film is placed on spools or nip rollers as seen in the Figures and hence an equal amount of force is applied across the entire film. Furthermore, Martin-Cocher et al. (WO 94/04419) also employ rollers for stretching and relaxing their film and hence, in this case again, an equal amount of force must be applied across the entire film. The process of uniformly relaxing the film, as disclosed in the instant application, is the same as that taught by Johnstone and Martin-Cocher and hence the processes of Johnstone and Martin-Cocher must inherently result in a uniform relaxation. The Examiner wishes to direct the

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Applicants attention to Figure 1 of the instant application and the Figure 1 of WO 98/50219.

Applicants have further directed the Examiner's attention to pages 10 to 14 of the Specification, which, the Applicants allege, illustrate the significant improvements that are achieved by relaxing the film within the range of 5 to 20% of its total stretched length. The Applicants submit that the Applicants need not prove that the improvements are not achieved or are significantly reduced beyond 20% relaxation. However, as previously pointed out, the Examiner has reviewed the experimental data provided in the Specification and takes the position that the showing is not commensurate with the scope of the claimed range of the amount of relaxation of its total stretched length. The results set forth in the Specification compare an unstretched film with films that have been stretched and either not relaxed or relaxed 5.8%, 11%, 15.7% and 20% and indicate that a significant advantages are achieved when the relaxation level is 5% or greater than 10% of its total stretched length. However, there is no indication that the same significant advantages would not be obtained if the film is stretched over 20% and thus it is not established that a relaxation of 5 to 20% of its total stretched length results in unexpected results. Hence, the Examiner maintains that unexpected results over the claimed range have not been established.

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Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheeba Ahmed whose telephone number is (571)272-1504. The examiner can normally be reached on Mondays and Thursdays from 8am to 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Thibodeau can be reached on (571)272-1516. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-5408 for regular communications and (703)305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)306-5665.



Sheeba Ahmed
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February 5, 2004